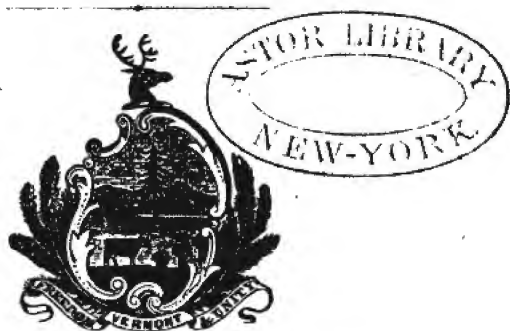


THE  
ACTS AND RESOLVES  
PASSED BY  
THE LEGISLATURE  
OF THE  
STATE OF VERMONT,  
AT THE OCTOBER SESSION,  
1849. 1852



PUBLISHED BY AUTHORITY.

MONTPELIER :  
E. P. WALTON & SON.  
1849.

## No. 41.—AN ACT IN RELATION TO RAILROAD CORPORATIONS.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. All railroad companies that have been or that shall hereafter be incorporated, under the authority of this State, shall have all the powers and privileges, and be subject to all the duties, liabilities, and other provisions contained in this act respecting such corporations, so far as the same are consistent with their respective charters.

SEC. 2. No petition or bill for the establishment of any railroad corporation, or for extending the grant or charter for any such corporation, shall be acted upon, unless notice thereof shall have been published in a newspaper, or two newspapers, if so many there shall be, printed in each of the counties in which such railroad, or the extension thereof, shall be located or proposed to be located, which notices shall be published three weeks successively in each of said papers, and the last publication shall be at least three weeks previous to the session of the General Assembly, to which said petition or bill shall be presented ; and if no newspaper be printed in such county, then the publication shall be made as aforesaid in some newspaper printed in an adjoining county.

SEC. 3. Every act of incorporation for a railroad company shall confine the road within the limits indicated by the notice required in the preceding section, shall specify the several towns through which the same may pass, and shall otherwise designate the route, on which the road may be authorized to be made, with as much certainty as the nature of each case will admit.

SEC. 4. The immediate government and direction of the affairs of every such corporation shall be vested in a board of not less than five directors, who shall be chosen by the members of the corporation in the manner hereinafter provided, and shall hold their offices until others shall be duly elected in their places ; and the said directors shall elect one of their own number to be president of the board, who shall also be president of the corporation ; and they may also choose a clerk, who shall reside and keep his office in this State, and who shall be sworn to the faithful discharge of his duty, and a treasurer, and also such subordinate officers as the company by its by-laws may designate, who shall give bonds to the corporation, in such sum as shall be required by the by-laws, for the faithful discharge of

the duties of their office. A majority of the directors shall form a board, and shall be competent to transact the business of the company.

SEC. 5. At all meetings of the corporation, each member shall be entitled to one vote for each share held by him; provided, that he shall not be entitled to any vote for any shares beyond one tenth part of the whole number of shares of the stock of such corporation; and all meetings shall be called and notified in such manner as shall be provided in the by-laws of such corporation.

SEC. 6. In case it shall happen at any time that an election of directors shall not be made on the day designated in the by-laws of any railroad company, when it ought to have been made, the company for that reason shall not be dissolved, if within ninety days thereafter they shall hold an election for directors in such manner as shall be provided for by the said by-laws.

SEC. 7. The shares in the capital stock of any railroad corporation shall be deemed personal estate, and may be transferred by any conveyance in writing, in the manner provided by the by-laws of such corporation, and shall be liable to attachment and sale under legal process, in the manner provided by chapter seventy-nine of the Revised Statutes.

SEC. 8. The commissioners for opening books of subscription, named in any act of incorporation, shall, from time to time, after the company shall be incorporated, open books of subscription to the capital stock of the company, in such places, and after giving such notice, as a majority of them shall direct, which books of subscription shall be kept open until all the capital stock shall be subscribed, if the corporation shall so long exist, and in case a greater amount of stock shall be subscribed than the whole capital stock of such company, the commissioners shall distribute such capital stock as equally as possible among the subscribers, but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any subscriber than such subscriber shall have subscribed for.

SEC. 9. Every person, at the time of subscribing for stock in any railroad company, shall, at the time of subscribing, pay to the commissioners five dollars on each share for which he may subscribe, and shall, if required by the commissioners, give security to their satisfaction for the payment of fifteen dollars more on each share, in such instalments as may be ordered by such company; and each subscriber shall be a member

of such company. All subscriptions for stock shall be payable absolutely, and no secret agreement, nor any understanding or condition not inserted in the terms of the subscription, shall affect the right of the corporation to enforce payment thereof as hereinafter provided.

SEC. 10. As soon as practicable after said stock, or such portion thereof as may be prescribed in the act of incorporation, shall have been subscribed, the commissioners to receive subscriptions shall give at least ten days notice for the meeting of the stockholders, at such time and place as said commissioners shall appoint, for the choice of directors, by publishing the same in such newspapers as they shall direct; and such election shall then be made by ballot by the stockholders, who shall attend for that purpose, either in person or by proxy. Said commissioners shall be inspectors of the first election of directors, shall openly count the votes and declare the result, and shall certify the names of those duly elected, and shall also deliver to said directors all moneys received by such commissioners on subscriptions to such capital stock, and all books and papers in their possession relating to such subscriptions. The time and place for the first meeting of said directors shall be fixed by said commissioners. A new election of directors shall be made annually, at such time and place, and upon such notice, as shall be designated in the by-laws of the corporation; but if the by-laws contain no provision upon the subject, then at such time and place, and upon such notice, as the directors shall designate.

SEC. 11. The president and directors of every railroad corporation, may, from time to time, make such equal assessments on all the shares in said corporation as they may deem expedient and necessary for the purposes of the corporation, and may direct the same to be paid to the treasurer, who shall give notice thereof to the stockholders, either personally or by letter through the mail, or by publication in such newspaper as the directors shall designate: and if any stockholder shall neglect to pay his assessments, for the space of thirty days, after notice from the treasurer, the directors may order the treasurer, after giving notice of the sale, to sell such shares at public auction, to the highest bidder, and the same shall accordingly be transferred to the purchaser; and if the shares of any delinquent stockholder shall not sell for a sum sufficient to pay his assessment, with interest and charges of sale, he shall be held liable to the corporation for any deficiency; and if such shares shall sell for more than the assessment, so due, with interest and

charges of sale, he shall be entitled to the surplus remaining after such sale; provided, that no assessment shall be laid upon any shares in such corporation, to a greater amount than the sum at which the shares shall be fixed by the charter of such corporation, or by any vote or agreement of the stockholders. The purchasers and owners of the shares so purchased, shall be liable for all the subsequent assessments thereon, and payment thereof may be enforced in the manner above provided.

SEC. 12. Every railroad corporation may lay out its road, not exceeding five rods wide; and for the purpose of cuttings, embankments, and procuring stone and gravel, may take as much more land, within the limits of its charter, in the manner provided in this chapter, as may be necessary for the proper construction and security of the road.

SEC. 13. Every railroad corporation may purchase, or otherwise take, any lands, or materials, necessary for the purpose of making or securing their railroad; and may also take, by purchase or otherwise, such water, and in such quantity, as may be required for the use of the road, together with the right of laying down all necessary aqueducts, for the conveyance of water, and of entering upon the land, and constructing, and keeping in repair, all such aqueducts; and if they shall not be able to obtain such land, or materials, such water, and the right of conveying the same, by an agreement with the owner thereof, they shall pay therefor such damages as shall be estimated and determined by the commissioners mentioned in section fifteen of this act.

SEC. 14. No land, or materials, without the limits of said road, shall be so taken, without the permission of the owner thereof, unless the commissioners, on the application of such corporation, and after notice to the owner, shall first prescribe the limits within which land or materials shall be so taken as aforesaid.

SEC. 15. Whenever any railroad corporation shall not have acquired, by gift or purchase, any land, real estate, or property, taken or required for the construction and maintenance of their road, and the convenient accommodation of the same, and in case of a disagreement about the price of such lands and other property, any two of the judges of the Supreme Court, upon application for that purpose, by such company, shall appoint three disinterested commissioners to determine the damages which the owner or owners of such lands or property may have sustained, or shall be likely to sustain, by the occupation of the same for the purposes aforesaid; and upon the payment of

the damages determined upon by such commissioners, with the costs and charges thereupon accruing, by said company, or upon the deposit of the same by such company in such bank, or with such clerk of the Supreme Court, as said commissioners shall direct, to the credit of the person or persons to whom such damages have been awarded, such bank or clerk giving notice personally, or by letter through the post-office, to such persons that such deposit has been made, such company shall be deemed to be seized and possessed of all such lands or other property as shall have been appraised by said commissioners. One of said commissioners shall be an inhabitant of the town in which the land or other property to be appraised is situated, and all of said commissioners shall be inhabitants of the county in which such property is situated, and said commissioners shall give twelve days notice to the occupants or owners of the lands to be appraised, of the time and place when and where they will attend to such appraisal; and when such appraisal is made, they shall, within twenty days, notify the owner, if known, of the amount thereof, and deliver to said company a written statement of the same, with a description of the land or other property so by them appraised, which, within thirty days thereafter, said company shall cause to be recorded in the town clerk's office of the town where such lands or other estate lie; and in case the owner of such lands or estate shall be a married woman, an infant, idiot, or insane, or shall not reside in this state, or shall not be known, then said company shall cause the damages sustained by such owners to be determined in the manner above prescribed, and shall pay the same to the lawful owners, when demanded, with the interest thereon, which said damages and interest shall be a specific lien upon the real estate of such company, and be preferred before any other demand against said company.

SEC. 16. Should the company, or the owner of any land or property, feel aggrieved by the decision of the commissioners, either party may, within ninety days after the date of such award, appeal to the county court in the county where the land or other property lies; and such court shall thereupon appoint three commissioners, one of whom shall be an inhabitant of the county in which such land or property is situated; and the decision of such court shall be final upon the report of said commissioners, and costs may in the discretion of such court be taxed and allowed to either party.

*Provided*, That no appeal shall be taken by the corporation after deposit of the amount of the award, nor shall an appeal be tak-

en by the landholder or owner after acceptance of the amount of the award.

SEC. 17. At least ten days before any appraisal shall be made by the commissioners, of any lands or other property taken by any railroad corporation, for the purposes of the road, such corporation shall deliver to the owner, or deposit in the town clerk's office in the town in which the same is situate, a plan or description in writing of the land or property so taken.

SEC. 18. Whenever any railroad corporation, which has been or may be chartered, shall require, either for roadway or building materials, any lands, the owner or owners of which are unknown, or where there are conflicting claims to the title, or where such lands are encumbered by mortgages, attachments, or the levy of executions, or otherwise, such corporation, after having the damages appraised by the commissioners, may, if they think fit, apply by petition to the chancellor of the district in which such lands are situated, and such chancellor may, in his discretion, order the damages awarded by the commissioners to be deposited with the clerk of the court, or in some bank in the county where such land is situated, subject to the order of such person or persons as said chancellor shall decide to be legally and equitably entitled to the same, or subject to the future order of the chancellor of said district.

SEC. 19. No final decree shall be made in such case, until reasonable notice shall have been given to all persons interested, where they are known, and resident in this State, of the filing of such petition; and when the owners are unknown, or reside without this State, such notice shall be given as the chancellor shall order, by publication or otherwise.

SEC. 20. On the deposit of the damages awarded under the order of a chancellor, the title to such lands shall vest in such corporation, subject to the right of appeal as in other cases, and if the sum so deposited shall remain for six months undemanded, the chancellor may order the same invested for the benefit of those interested.

SEC. 21. No notice shall be required to be given of the appraisal of unoccupied lands, unless the owner or owners shall reside in this State, or has some known agent or attorney residing therein; and if there be, the same notice shall be given to such agent or attorney as is directed to be given to the occupant or owner, in section fifteen of this act.

SEC. 22. Whenever a railroad corporation shall have paid, or become liable to pay, land damages for the location of their road, and shall afterwards change such location and occupy

other lands of the same land owner to whom damages shall have been paid or awarded, such land first located upon shall, on the completion of such second location, revert absolutely to such land owner, and on such subsequent location, the commissioners shall award no other or greater damages than under all the circumstances shall be just and equitable: and if the damages awarded on such second location shall be less than the damages awarded on the first location, the corporation may recover the difference, if paid, from such land owner, and if awarded and not paid, may retain the difference, and shall not be liable to pay the same: *Provided*, That in case the damages on the first location shall have been assessed by the commissioners and an appeal taken therefrom and be pending, such corporation shall pay the costs that may have accrued in such appeal, and cause their new location to be recorded, before they shall be allowed to take any benefit of this section.

SEC. 23. If the location of any railroad shall be changed, after the payment of damages to any land owner, and no portion of the lands of such owner shall be taken for the new location, then the lands so taken for said first location shall revert absolutely to the owner, as provided in the preceding section: and such railroad corporation shall have the right to recover from such land owner the amount so paid as damages, deducting therefrom the damages which shall have actually accrued to such owner in consequence of locating said railroad across said lands, which damages shall be ascertained by the commissioners in the manner provided in this act for determining land damages upon the location of any railroad: *Provided*, however, such land owner may, if he chooses, convey to such company the land so located upon, and in that case may retain the sum so awarded.

SEC. 24. If the location of any such road shall have been changed, as mentioned in the preceding section, and the damages shall have been awarded and not paid, the land first located upon shall revert to the owner thereof, and the corporation shall not be required to pay the sum so awarded, but shall pay to such owner all damages which may have accrued to him by reason of such location, to be determined by said commissioners.

SEC. 25. Every such corporation may cause such examinations and surveys for the proposed railroad to be made, as may be necessary to the selection of the most advantageous route for the railroad; and for such purpose, by their officers, agents and servants, may enter upon lands or waters of any per-



son, but subject to responsibility for all damages which they shall do thereto ; but for no other purpose, without the consent of the owner, shall they be permitted to make such entry, until the damages have been agreed upon by the parties, or ascertained and paid to the owner, or deposited as herein before directed.

SEC. 26. If, after the laying out and making of any railroad, already granted, or which may hereafter be granted, any turnpike road or other way shall be so laid out as to cross said railroad, the said turnpike road or way may be so made as to pass under or over said railroad, and said turnpike or way shall in all cases be so made as not to obstruct or injure such railroad.

SEC. 27. Whenever it shall become necessary for any railroad corporation to lay out their road upon, or by the side of any turnpike, highway or way, or upon any bridge owned by a town or turnpike corporation, said corporation shall give notice thereof to one of the directors of such turnpike, or to one of the selectmen of such town ; and if such railroad corporation cannot agree with the selectmen of the town, or with the turnpike directors, on some road to be worked, or bridge to be built by the railroad corporation, in lieu of such road or bridge, or on the amount of damages, the commissioners, appointed to appraise land damages for such railroad corporation, shall direct said corporation to build such road or bridge, as a substitute for the road or bridge so located upon, as the interest of the public and the parties shall require ; and upon the construction of such road or bridge, the road or bridge so located upon shall vest in said corporation.

*Provided,* That any railroad corporation, turnpike corporation, town, or individual, owning land adjacent to said road or bridge, so entered upon, crossed or altered, shall have the same right of appeal from the decision of the selectmen or commissioners, as is provided for in the fifteenth section of this act.

SEC. 28. Any railroad may be so laid out as to cross any turnpike or other way ; and the corporation may raise or lower such turnpike or way, for the purpose of having their railroad pass over or under the same. If any railroad corporation, which has been or may be established, shall think proper to alter the course of any turnpike or other way, where it is crossed by their railroad, for the purpose of facilitating the crossing of the same, they may alter the same accordingly. Before proceeding to make any alteration in such turnpike or way, said railroad corporation shall, in writing, notify one of the directors of the corporation owning such turnpike, or one of the selectmen of

the town in which such way is situated ; and if such corporation cannot agree with said selectmen, or turnpike directors, as to such alterations, or manner of crossing, the commissioners named in the preceding section shall determine the same.

SEC. 29. Such corporation may take such additional lands, for the purposes mentioned in the two last preceding sections, as said commissioners shall judge necessary. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be determined by said commissioners, as in other cases, and duly made by said railroad corporation, to the owners and persons interested in such lands ; the same, when so taken, on compensation made, to become part of such turnpike or way, in such manner and by such tenure as the adjacent parts of the same turnpike or way may be held for highway purposes. *Provided*, said land owners and said corporation shall have the same right of appeal as in other cases of land damages.

SEC. 30. All alterations made in any turnpike or way, under the three preceding sections, shall, if made by said commissioners, be signed by them, and if agreed upon by the parties, shall be signed by the turnpike directors or selectmen of the town, and duly recorded in the town clerk's office.

SEC. 31. Any railroad corporation, after having taken land, for any portion of their road, may, if they shall find it expedient, vary the direction of the road in the place where such land is situated ; provided, they shall not thereby locate their road, or any part thereof, without the limits prescribed by their act of incorporation ; and they shall, before the time required by law for completing their road, file the location of the different parts of the road, when such variations are made, with the town clerks of the respective towns, where said parts of the road are situated, who shall record the same.

SEC. 32. On the application of any railroad corporation, the commissioners for the assessment of land damages may, after notice and hearing in the case, authorize an original location of a railroad to be made, or an existing location to be altered, in any part thereof, if the same becomes necessary, without the limits prescribed by the charter of such corporation ; provided, that if such location or alteration is prayed for in a road, which lies in two or more counties, the said commissioners of either county, may hear and judge thereon.

SEC. 33. Every railroad corporation shall cause the location of their road, in each town through which it passes, to be recorded in the respective town clerks' offices of said towns, within

two years from passing the act of incorporation, which location shall be signed by a majority of the directors thereof, and shall define the courses, distances, and boundaries of the same.

SEC. 34. All railroad companies incorporated, or which may be incorporated, under the authority of this State, shall have power to make contracts and arrangements with each other, and with railroad corporations of other States, for leasing or running their roads, or any part thereof; and also, to contract for, and hold, in fee simple, or otherwise, lands or buildings, in this or other States, for depot purposes, and storing freights; and also to purchase and hold such personal property as shall be necessary and convenient for carrying into effect the object of this section. Said companies shall also have the right of connecting with each other, and with the railroads of other States, on such terms as shall be mutually agreed upon by the corporations interested in such connection.

SEC. 35. If any person shall wilfully and maliciously displace or remove any railway switch, or rail of any railroad, or shall break down, rip up, injure, or destroy any railroad track, or railroad bridge, or any portion thereof, or place any obstruction whatever on any such rail, or railroad track, or bridge, with intent that any person or property passing on and over such railroad should be injured thereby, and thereby shall put in jeopardy human life, every such person, so offending, shall be punished by confinement to hard labor in the state prison for a period not less than two years. And if, in consequence of any such act, done with the intent aforesaid, any person, passing on and over such railroad, shall actually suffer any bodily harm, or any property shall be injured, such actual suffering or injury shall aggravate the offence, and the person offending shall be punished accordingly by such further confinement to hard labor in the state prison as the circumstances of the case may demand.

SEC. 36. If any person shall wilfully and maliciously displace or remove any railway switch, or rail of any railroad, or shall break down, or rip up, injure or destroy any railroad track, or railroad bridge, or fence, or any portion thereof, or place any obstruction whatever on any such rail, or railroad track, or bridge, or shall do, or cause to be done, any act or acts whatever, whereby any engine, machine, or structure, or any matter or thing appertaining thereto, shall be stopped, obstructed, impaired, weakened, injured or destroyed, with intent that any person or property, passing on and over such railroad, should be injured thereby, and if, in consequence thereof, any person is

killed, or the life of any person is lost, every person so offending shall be deemed guilty of manslaughter, and shall be liable to be indicted and tried for the crime of manslaughter.

SEC. 37. If any person shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, fence, construction, or work of any such corporation, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person so offending shall be guilty of a misdemeanor, and shall also forfeit and pay to the said corporation double the amount of damages sustained by means of such offence.

SEC. 38. A bell, of at least thirty pounds weight, shall be placed on each locomotive engine, and be rung at the distance of at least eighty rods from the place where the railroad shall cross any road or street on the same grade, and be kept ringing until it shall have crossed such road or street; the steam whistle may be blown in lieu of ringing said bell.

SEC. 39. Every railroad corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained, across each public road or street, where the same is crossed by the railroad on the same level; said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of said boards shall be painted in capital letters, of at least the size of twelve inches each, the words—“*Look out for the Engine.*”

SEC. 40. If any railroad corporation shall unreasonably neglect or refuse to comply with the requisitions contained in the two preceding sections, they shall forfeit, for every such neglect or refusal, a sum not exceeding one thousand dollars.

SEC. 41. The directors of every such corporation shall, from year to year, make report to the Legislature, under the oath of the President or one of the board, of their acts and doings, receipts and expenditures, under the provisions of their charter, the first of which reports shall be made within one year after the organization of the corporation, and the others shall be made on or before the third Thursday of October in every succeeding year; and their books shall at all times be open to the inspection of any committee of the legislature appointed for that purpose; and if such corporation shall unreasonably refuse or neglect to make such reports, they shall, for every such refusal or neglect, forfeit a sum not exceeding five thousand dollars.

SEC. 42. Every such corporation may establish, for their sole benefit, a toll upon all passengers and property conveyed or transported on their railroad, at such rates as may be determined by the directors of the corporation; and may, from time to time, regulate such conveyance and transportation, the weight of loads, and all other things in relation to the use of such road, as the directors shall determine: *Provided*, That the Supreme Court may, at any stated session holden in any county through which said road passes, on the application of ten freeholders of such county, and due notice thereof to the corporation, from time to time, as they shall deem expedient, alter or reduce such rates of toll, according to the provisions, if any, contained in the charters of such corporations; but the said tolls shall not, without the consent of the corporation, be so reduced as to produce, with said profits, less than ten per centum per annum.

SEC. 43. The State may, at any time during the continuance of the charter of any railroad corporation, after the expiration of twenty years from the opening of said railroad for use, purchase of the corporation the said railroad, and all the franchise, property, rights and privileges of the corporation, by paying them therefor such a sum as will reimburse them the amount of capital paid in, with a net profit thereon of ten per cent. per annum from the time of the payment thereof by the stockholders to the time of such purchase.

SEC. 44. Each railroad corporation shall erect and maintain fences on the sides of their road, (so far as the same shall be necessary,) of the height and strength of a division fence as required by law, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad, and also construct and maintain cattle guards at all farm and road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses, or other animals thereon, if occasioned by want of such fences and cattle guards, and after such fences and guards shall be duly made, the corporation shall not be liable for any such damages, unless negligently or wilfully done; and if any person shall ride, lead, or drive any horse or other animal, upon such road, and within such fences and guards, other than at road and farm crossings, without the consent of the corporation, he shall for every such offence forfeit a sum not exceeding ten dollars, to be recovered by such corporation in an action on the

case, and shall also pay all damages which shall be sustained thereby to the party aggrieved.

SEC. 45. The provision in the preceding section, requiring such corporations to erect and maintain fences, shall not apply to any case where the corporation shall have settled with and paid the land owner for building and maintaining such fence.— And if any person, having been thus settled with and paid for keeping any such fence in repair, shall neglect so to do, such railroad corporation may make such repairs and recover the necessary expense thereof of such person or his grantee.

SEC. 46. If the parties cannot agree upon the plan, or manner, or number of farm crossings, mentioned in section forty-four of this act, the same shall be determined by the commissioners: *Provided*, That the commissioners shall not be required to order farm crossings to be made when the costs of construction shall exceed the value of the land to be accommodated thereby; but in such cases the commissioners shall award such damages, in lieu thereof, as shall be just and equitable.

SEC. 47. If any horse or other beast shall be found going at large, within the limits of any railroad, after the same is opened for use, the person, through whose fault or negligence such horse or other beast shall be so found, shall, for every such offence, forfeit a sum not exceeding twenty dollars, for every horse or other beast so found going at large, and shall also be liable for any damages thereby sustained by any person, to be recovered in an action on the case, by the person sustaining such damages.

SEC. 48. No locomotive engine or other power shall be allowed to run upon any railroad constructed by authority of this State, except such as belong to, and are controlled by, the corporation owning and managing such road, unless by the consent of such corporation.

SEC. 49. Every railroad corporation, which may be the owner of any railroad in use, is hereby required, at reasonable times, and for a reasonable compensation, to draw over their road the passengers, merchandize, and cars of any other railroad corporation, which has been, or may hereafter be, authorized by the Legislature to enter with their railroad upon, or to unite the same with, the road of such corporation, and use said last named road. And if the respective corporations, whose roads are so united, shall be unable to agree upon the place of union, or the compensation so as aforesaid to be paid, the Supreme Court, upon the petition of either party, and upon notice to the other party, shall appoint three commissioners, who shall, upon

due notice to the parties interested, proceed to determine and fix upon the place and manner of uniting, and such rate of compensation. And the award of said commissioners, or a major part of them, shall be binding upon the respective corporations interested therein, until the same shall have been revised or altered by commissioners appointed as aforesaid; but no such revision or alteration shall be made by such commissioners within one year after such decision and award shall have been made.

SEC. 50. The said commissioners shall, upon the application of either party, if the respective corporations cannot agree upon the same, also determine the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interest of said corporations, and of the public who will be accommodated thereby.

SEC. 51. The compensation of said commissioners, for their services and expenses, shall be paid by the respective corporations interested therein, in equal proportions.

SEC. 52. Any railroad company may construct their road across the track of any other such corporation already chartered, if the right so to do is reserved in the act creating such last mentioned corporation, and may also cross any other railroad hereafter granted, at any point on its route, and upon the grounds of such other company. And if the two corporations cannot agree upon the amount of compensation to be paid therefor, or the points and manner of such crossings, the same shall be ascertained and determined by commissioners, to be appointed and paid in the manner provided in the three preceding sections.

SEC. 53. Every railroad company in this State shall require sufficient security from the contractors for the payment of all labor performed in constructing the road of such company by persons in their employ; and such company shall be liable to the day laborers employed by the contractors, for labor actually performed on their road, but such liability shall not exist, unless the person having such claim shall, in writing, within forty days after the performance of such labor, notify the engineer in charge of the section on which the labor was performed, that he has not been paid by the contractors.

SEC. 54. If any person shall, while in charge of a locomotive engine running upon the railroad of any corporation, or while acting as the conductor of a car, or train of cars, on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

SEC. 55. Any railroad corporation shall, when applied to by the Postmaster General, convey the mail of the United States on their road; and in case such corporation shall not agree with said Postmaster General as to the rate of compensation therefor, and as to the time, rate and speed, manner and condition of carrying the same, the Governor of the State may appoint three commissioners, who, or a majority of them, after twenty days notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less, for carrying said mails in the regular passenger trains, than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the Postmaster General shall require the mail to be carried at other hours, or at higher speed, than the passenger trains be run at, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expense and wear and tear thereof, and for the services, to be fixed as aforesaid.

SEC. 56. If any articles of personal property, brought upon any railroad in this State, and deposited in any depot or warehouse of any railroad corporation, without any special contract for the keeping thereof, shall not be claimed by the owner or consignee, within sixty days from the time they are so deposited, and the legal charges thereon for freight remaining unpaid, such corporation may cause such property, or any portion thereof, to be sold by the sheriff of the county where the same may be deposited. And in the sale and disposition of the avails of such property, the sheriff shall be governed by the provisions of the act of 1843, entitled "an act to provide for the disposal of unclaimed property, stored with wharfingers and other storehouse keepers," approved Oct. 31st, 1843.

SEC. 57. If any passenger shall refuse to pay his fare or toll, or shall be disorderly, or drunk, or refuse to comply with all the reasonable regulations of the corporation for the government of the conduct of the passengers, it shall be lawful for the conductor of the train and the servants of the corporation to put him out of the cars, at any usual stopping place the conductor may elect.

SEC. 58. Every conductor, baggage master, engineer, brakeman, or other servant of any such railroad corporation, employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office,



and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall demand, or be entitled to receive, from any passenger, any fare, toll or ticket, or exercise any of the powers of his office, and no other of the said officers or servants, without such badge, shall have any authority to meddle or interfere with any passenger, his baggage or property.

SEC. 59. In forming a passenger train, no loaded, and not more than two empty baggage, or freight, or merchandize, or lumber cars, shall be placed in rear of passenger cars; and if they or any of them shall be so placed, and any accident shall happen to life or limb, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor and engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly.

SEC. 60. Whenever any engineer, fireman, or other agent of any railroad corporation, shall be guilty of negligence or carelessness, whereby an injury is done to any person or corporation, he shall, upon conviction, be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding one thousand dollars: *Provided*, That nothing contained in this section shall exempt such corporation from an action in damages to any person or corporation sustaining such injury.

SEC. 61. When any injury is done to a building or other property, by fire communicated by a locomotive engine of any railroad corporation, the said corporation shall be responsible in damages for such injury, unless they shall show that they have used all due caution and diligence and employed suitable expedients to prevent such injury.

SEC. 62. Any railroad corporation shall have an insurable interest in such property as is mentioned in the preceding section, along its route, and may procure insurance thereon, in its own name and behalf.

SEC. 63. Every railroad corporation shall be a body corporate and politic, from the passing of the act of incorporation, so far as to authorize such corporation, after its organization, to enforce the payment of subscriptions to its capital stock, and the performance of contracts in relation to the conveyance of real estate for the purposes of the road, made with any person for the benefit of the corporation, although such subscriptions and contracts may have been made prior to such organization.

SEC. 64. No railroad corporation, which is authorized by its charter to increase its capital stock, shall, hereafter, issue shares

for a less amount, or sum, to be actually paid in on each, than the par value of the shares in the original stock of said corporation, unless all the stockholders in such corporation shall, in writing, agree that such shares may be issued for a less sum.

SEC. 65. This act shall be, at all times, subject to alteration, amendment, or repeal, by any future Legislature, and shall not take effect till the first day of December, A. D. 1850.

SEC. 66. Nothing in this act contained shall be so construed as to affect any rights or liabilities which have already accrued.

Approved, November 13th, 1849.